

Public Hearing Staff Report

June 7, 2007



Case:	9-10-07/10-6-07
Project Name:	The Villas at Orell Station
Location:	7400 W. Orell Road
Owner(s):	TSB Development, Inc.
Applicant:	TSB Development, Inc.
Representative:	Mendel Scott & Associates, Inc.
Project Size/Area:	40.40 acres
Jurisdiction:	Louisville Metro
Council District:	14 – Bob Henderson
Case Manager:	Brian Davis, AICP, Planner II

Request

The applicant requests approval of a change in zoning from R-4 Single-Family Residential to R-5A Multi-Family Residential on 40.40 acres in Louisville Metro.

Staff Recommendation

Staff recommends approval of the detailed district development plan, preliminary subdivision plan and rezoning.

Case Summary / Background

Summary

The applicant is proposing to rezone the property to R-5A Multi-Family Residential and create 168 dwelling units (128 patio homes and 40 condos). The subject site is located on 40.40 acres in Louisville Metro. The property is currently zoned R-4 Single Family Residential and is within the Neighborhood Form District. The property's frontage is along West Orell Road and Lower River Road, which are collector level roadways.

Site Context

There is an approved preliminary subdivision plan on the easternmost third of this property, Docket Number 10-13-06, which proposes the creation of 86 single-family residences. To the north (across West Orell Road), there are some large-lot single-family residences. The Ohio River Levee forms the western boundary of the development. Large lot single-family residential and vacant lots line the proposed development to the south.

Land Use / Zoning District / Form District			
	Land Use	Zoning	Form District
Subject			
Existing	Vacant	R-4	Neighborhood
Proposed	Multi-family residential (patio homes and condos)	R-5A	Neighborhood
Surrounding			
North	Large lot single-family residential	R-4	Neighborhood
South	Vacant/large lot single-family residential	R-4	Neighborhood
East	Proposed single family residential (Docket Number 10-3-06)	R-4	Neighborhood
West	Vacant (Ohio River levee)	R-4	Neighborhood

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Pre-App. Review	7/11/2006	
Project submittal	2/13/2007	LD&T requested the 20-foot easement be included, requested the applicant provide renderings showing how units can vary
LD&T review	4/26/2007	
Planning Commission Public Hearing	6/7/2007	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Staff Findings

1. The proposed rezoning could be considered appropriate because of the site's location near Dixie Highway and on West Orell Road and Lower River Road (both are collector level roadways).
2. Staff has not received any comments from adjoining property owners or area residents. The applicant originally proposed an ADI subdivision on the site, but after considerable comments and suggestions from adjoining property owners, the applicant amended the plan to its current form.

3. Staff finds the proposed patio home and condominium housing provides a style of housing that currently is not available in this area of the community. The units will be variably priced to provide housing choices for differing ages and incomes.
4. The net density of the proposed development, which is 4.84 dwelling units per acre (gross density is 4.16 du/acre), is similar to the maximum allowed density allowed by the R-4 Single Family Residential district. The density is below the 12.01 du/acre allowed by the R-5A Residential Multi-Family District.

Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)

This site is not in the area of any small area or neighborhood plans.

Relationship to Comprehensive Plan – Cornerstone 2020 Plan Elements

Community Form - The proposed R-5A zoning and site design are not the predominate zoning and development pattern within the area, however; given the proposed density and the site's location on two collector level roadways, the proposal could be considered appropriate.

The applicant has provided architectural renderings/elevations of the proposed structures for review/consideration. The Land Development & Transportation committee and a staff architect have made comments and amendments have been made to the proposed structures to show how the units can be differentiated and details on possible patio enclosures.

The plan complies with requirements for screening/buffering against single-family uses by providing a 15-foot Landscape Buffer Area (LBA) along the Louisville Metro property boundaries which must contain a 6' continuous screen and 3.5 trees per 100 feet.

Mobility/Transportation - The applicant submitted a traffic study which was reviewed by the Kentucky Transportation Cabinet, Louisville Metro Public Works, and Transportation Review. The report concludes that the traffic impacts of the proposed residential development are minimal at the West Orell Road/Lower River Road and West Orell Road/Dixie Highway intersections. The applicant has agreed to improve West Orell Road along the frontage of the development. This includes widening the pavement width to a minimum of 12 feet from the centerline and providing a six to eight foot wide shoulder.

Sidewalks are being provided along the West Orell Road and Lower River Road frontages, as well as along the interior roads within the development.

Proposed parking meets the LDC requirements.

Livability/Environment

The applicant will not be preserving any of the existing tree canopy to meet the tree canopy requirements. The applicant is proposing to plant trees to meet the 20 percent tree canopy requirement. A detailed tree preservation plan will be submitted prior to construction plan approval.

The applicant is providing a 20-foot easement to Metro Parks to allow for a future connection to the Levee Trail from Lower River Road.

The applicant is designating an area on West Orell Road for a future TARC bench or pedestrian boarding area.

Standard of Review

Criteria for granting the proposed rezoning:

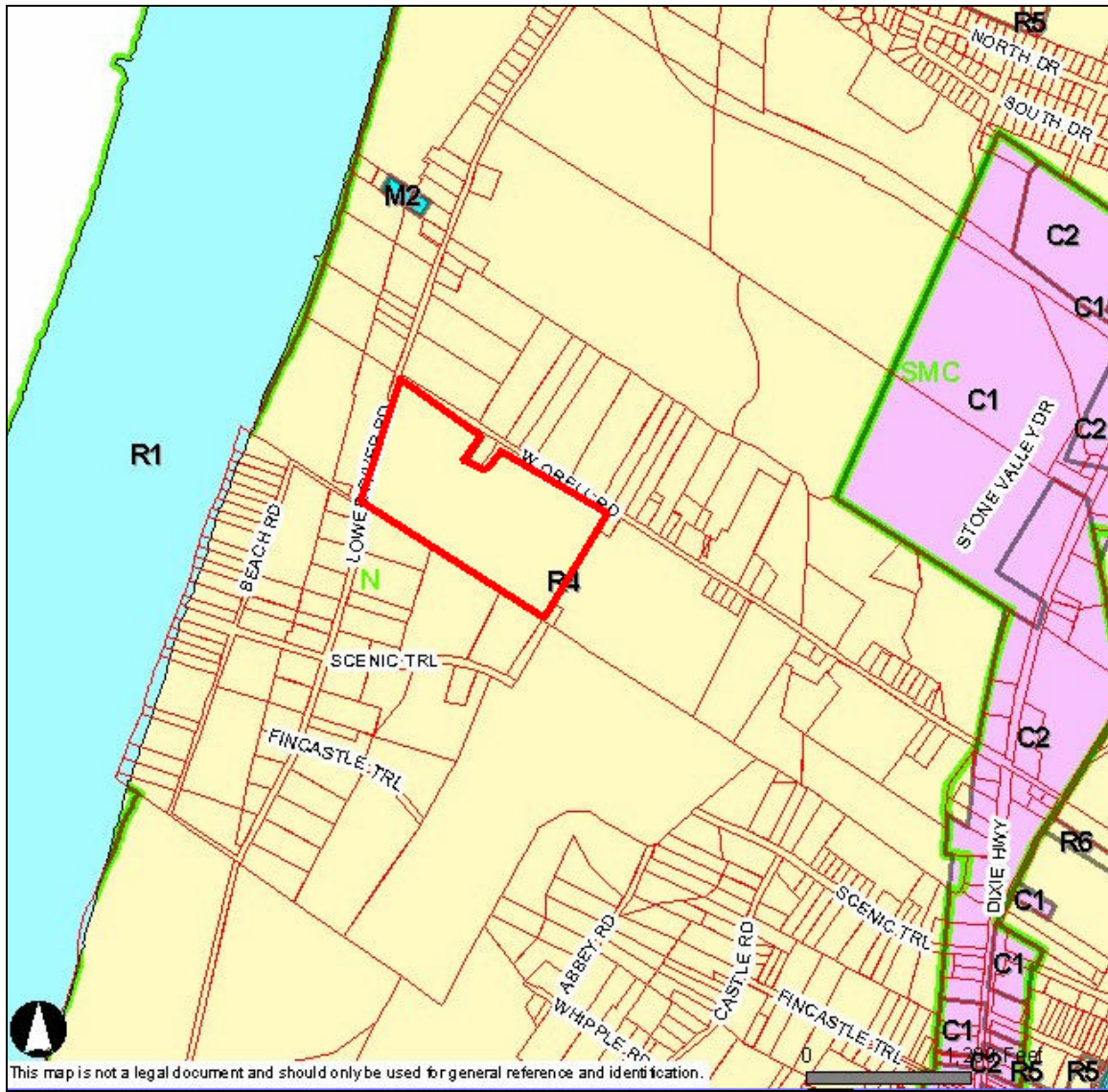
1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

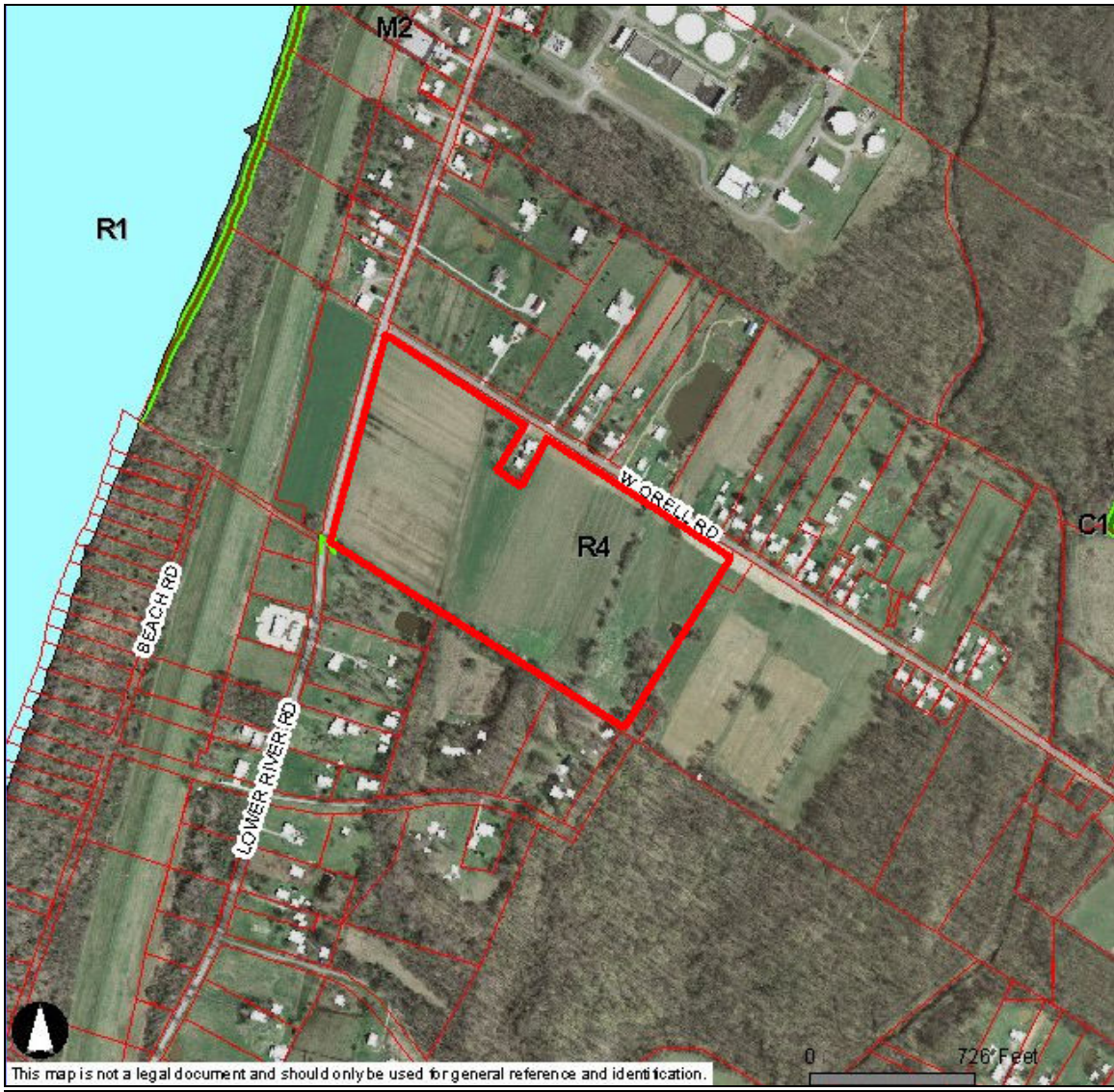
Notification

The following forms of notification were provided pertaining to this proposal:

Notification		
Date	Description	Recipients
4/11/07	Notice of LD&T Meeting	Adjoining property owners and neighborhood group listing.
5/07/07	Notice of Public Hearing	Adjoining property owners and neighborhood group listing.

Attached Documents / Information





Proposed Binding Elements

1. The development shall be in accordance with the approved District Development and Preliminary Subdivision Plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).
 2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 4. Location of construction fencing for each tree/tree mass designated to be preserved.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.
 - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning & Design Services.

4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
7. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
 - a. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
 - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
 - c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
 - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.

- e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
- 8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCPAs, WPAs.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
- 9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 10. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
- 11. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant

shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the LDC. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 7, 2007 Planning Commission meeting.
13. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall (1) provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account and (2) provide a bond in the amount of \$10,000 to be utilized by the homeowner's association for the placement of public amenities in the designated open space areas. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
14. The signature entrance plan shall be submitted to Planning Commission staff for review and approval prior to recording the record plat.
15. The applicant shall provide a **wetlands determination** letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the plan to mitigate any impact on the wetlands. The location of any identified wetlands and associated buffers must be identified on construction plans and/or record plats.
16. The applicant shall obtain approval of a detailed landscape plan for the 50-foot Landscape and Variable Berming Area along Lower River Road. The landscape buffer area shall be maintained by the property owners association. The landscape plan shall be submitted for review and approval by DPDS staff prior to record plat approval.
17. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
18. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for Street A. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
19. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

20. Developer shall provide irrigation systems to ensure that the signature entrances to be located along West Orell Road and Lower River Road are properly watered.